

Itw

Docket No.: 80246(302741)
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Gen-Ichiro Soma et al.

Application No.: 10/572,853

Confirmation No.: 9265

Filed: February 9, 2007

Art Unit: 1655

For: METHOD FOR FERMENTATION AND
CULTIVATION, FERMENTED PLANT
EXTRACT, FERMENTED PLANT EXTRACT
POWDER, AND COMPOSITION
CONTAINING THE EXTRACT OF
FERMENTED PLANT

Examiner: MI, Qiuwen

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed October 29, 2007, between:

Group I, claim(s) 1-11, 23-25, and 30-32, drawn to a method for fermentation and culture; and

Group II, claim(s) 12-14, 16-22, 26-29 and 33-38, drawn to a product containing fermented plant extract;

Applicants hereby **provisionally elect Group II, claims 12-14, 16-22, 26-29 and 33-38** with traverse for continued examination.

The reliance on Kimura (USP 5,776,756) is not only technically incorrect but relevant and therefore does not create the basis for a lack of special technical features. Kimura teaches a "microorganism is selected from the group consisting of *Bacillus natto* and *Bacillus subtilis*" (see col.12, lines 8-10), but both *Bacillus natto* and *Bacillus*